

DEPARTMENT OF THE NAVY
Office of the Secretary
Washington, D.C. 20350-1000

SECNAVINST 5820.7B
OP-642
28 March 1988

SECNAV INSTRUCTION 5820.7B

From: Secretary of the Navy
To: All Ships and Stations

Subj: COOPERATION WITH CIVILIAN LAW
ENFORCEMENT OFFICIALS

- Ref: (a) DODDIR 5525.5 of 15 Jan 86,
Subj: DOD Cooperation with Civil-
ian Law Enforcement Officials
(NOTAL)
- (b) SECNAVINST 3820.3C
(c) SECNAVINST 5520.3
(d) SECNAVINST 5211.5C
(e) SECNAVINST 3820.2D
(f) OPNAVINST 4630.25B
(g) The Intergovernmental Coopera-
tion Act of 1968, 31 U.S.C.
§§ 6501-6508 (1982)
(h) Federal Property and Administra-
tive Service Act of 1949, 40
U.S.C. Ch. 10 (1982 & Supp. III
1985)
(i) Surplus Property Act of 1944, 50
U.S.C. App. §§ 1622 (1982)
(j) DODDIR 4160.23 of 27 Jan 81,
Subj: Sale of Surplus Military
Equipment to State and Local Law
Enforcement and Firefighting
Agencies (NOTAL)
(k) SECNAVINST 4500.15 (NOTAL)
(l) SECNAVINST 11011.46 (NOTAL)
(m) OPNAVINST 3440.16A
(n) OPNAVINST 5450.187
(o) NAVCOMPTMAN, Vol. 3, Ch. 5
(p) NAVCOMPTINST 5740.3 (NOTAL)
(q) DODDIR 5030.46 of 26 Mar 71,
(r) Posse Comitatus Act, 18 U.S.C.
§§ 1385 (1982)
(s) DODIG Criminal Policy Memorandum
Number Five, Subj: Assist-
ance to the District of Columbia
Government in Combatting Crime
(NOTAL)

Encl: (1) Format for "Report on Support to (A)
Civilian Law Enforcement"
(2) Format for "Aviation Assistance (A)
to Law Enforcement Agencies"

1. Purpose. To revise Department of the Navy (R)
(DON) policies and procedures for providing assis-
tance to Federal, State, and local civilian law en-
forcement officials per reference (a).

2. Cancellation. SECNAVINST 5820.7A. (R)

3. Applicability. Applies to all DON commands
and activities.

4. Summary of Changes. This instruction revises
DON guidance on cooperation with civilian law
enforcement officials reflecting current legislation
(10 U.S.C. §§ 371-380) and reissued Department
of Defense (DOD) guidance (reference (a)). Major
changes include detailed guidance on kinds of as-
sistance which can be provided to civilian law en-
forcement officials and the limitations, approval
authorities, revised reporting requirements, and
reimbursement procedures applicable to requests
for assistance.

5. Definitions

a. Civilian Agency. An agency of one of the (R)
following jurisdictions:

(1) The United States (other than the De-
partment of Defense, but including the U.S. Coast
Guard). This includes U.S. agencies in interna-
tional areas dealing with U.S. flag vessels or air-
craft in violations of U.S. law.

(2) A State (or political subdivision of it) of
the United States.

(3) A Commonwealth, Territory, or Posses-
sion (or political subdivision thereof) of the United
States.

b. Civilian Law Enforcement Official. An

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officer or employee of a civilian agency with responsibility for enforcement of the laws within the jurisdiction of that agency.

c. **DON Intelligence Components.** The Director of Naval Intelligence; the Naval Intelligence Command; the Naval Security Group Command; the Director of Intelligence, U.S. Marine Corps; the counterintelligence elements of the Naval Security and Investigative Command; and any other organizations, staffs, and offices when used for foreign intelligence or counterintelligence purposes under reference (b).

6. Policy

a. It is DON policy to cooperate with civilian law enforcement officials to the maximum extent practicable, consistent with the needs of national security and military preparedness, the historic tradition of limiting direct military involvement in civilian law enforcement activities, and the requirements of applicable law. All support provided to civilian law enforcement efforts by DON activities shall be in accordance with this instruction.

b. Assistance provided under this instruction shall be at the least practicable cost. Assistance may not be provided if the provision of such assistance would adversely affect national security or military preparedness.

R) c. All requests from civilian law enforcement officials for the use of DON equipment, facilities, or personnel under this instruction, including requests which are forwarded with a recommendation that the request be denied, shall be submitted promptly to the designated approval authority.

A) (1) When the designated approval authority is the Secretary of the Navy or higher authority, the request shall be forwarded via the chain of command to the Chief of Naval Operations (OP-642) or the Commandant of the Marine Corps (POS), as appropriate, for review and forwarding to the Assistant Secretary of the Navy (Manpower and Reserve Affairs) for approval or forwarding to the Secretary of Defense, if required.

R) (2) Requests for assistance from civilian law enforcement officials which may be approved at

the Secretary of the Navy level or below may be denied by the appropriate second echelon commander if it is determined, under the policies set forth herein, that the requested assistance should not be provided. Requests which are denied by second echelon commanders need not be forwarded to higher authority, but shall be included in the quarterly report required by paragraph 13.

(3) Requests requiring DOD approval must be forwarded with a recommendation of approval or denial and the reasons therefore. Requests shall be forwarded and processed in keeping with the degree of urgency dictated by the situation. Requests may be communicated by telephone when circumstances require. (A)

d. When forwarding a request for assistance under this instruction, the forwarding command shall provide all available relevant information concerning: (A)

(1) the ability to provide the assistance requested without adversely affecting national security or military preparedness, and

(2) the incremental costs which would be incurred by DON in providing the requested assistance. When appropriate, the forwarding command shall recommend approval or disapproval of the request.

e. The Joint Chiefs of Staff shall provide advice (R) on the impact on national security and military preparedness of any request for military assistance at the request of the Secretary of Defense, the Assistant Secretary of Defense (Force, Management and Personnel), the Secretaries of the Military Departments, the Directors of Defense Agencies, or the Commanders of the Unified and Specified Commands.

7. Use of Information Collected During Operations

a. DON activities are encouraged to provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military operations that may be relevant to a violation of any Federal or State law

within the jurisdiction of such officials. All information collected during the normal course of military operations which may be relevant to a violation of Federal or State law shall be forwarded to the local Naval Investigative Service field office for dissemination to appropriate civilian law enforcement per reference (c). An exception may be made where information is acquired and disseminated to a civilian agency, through channels of dissemination established and approved by the Chief of Naval Operations, the Commandant of the Marine Corps, or higher authority as part of a formal program of cooperation between DON and the civilian agency. On Marine Corps installations with Provost Marshal activities, such information shall be forwarded to the installation Provost Marshal who, when required by existing directives, will refer the information to the Naval Investigative Service.

b. In the event that a system of records maintained by DON to carry out DON functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use under reference (d), to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto. Such records shall be disseminated as provided in paragraph 7a.

c. The acquisition and dissemination of information under this paragraph shall be per references (b) and (e) where applicable. Nothing in this section modifies DON policies or procedures concerning collection or dissemination of information for foreign intelligence or counterintelligence purposes.

d. The planning and execution of compatible military training and operations may take into account the needs of civilian law enforcement officials for information when the collection of information is an incidental aspect of training performed for a military purpose. In this regard, the needs of civilian law enforcement officials may be considered in scheduling routine

training missions. This does not permit the planning or creation of missions or training for the primary purpose of aiding civilian law enforcement officials, nor does it permit conducting training or missions for the purpose of routinely collecting information about U.S. citizens. Local law enforcement agents may accompany routinely scheduled training flights as observers for the purpose of collecting law enforcement information. This provision does not authorize the use of DOD aircraft to provide point-to-point transportation and training flights for civilian law enforcement officials. Such assistance may be provided only following reference (f). (R)

8. Use of DON Equipment, Facilities and Personnel

a. DON activities may make equipment, base facilities, or research facilities available to Federal, State, or local civilian law enforcement officials for law enforcement purposes when approved in accordance with paragraph 9e. (R)

b. Requests for DON personnel to operate or maintain, or to assist in operating or maintaining, equipment made available under this paragraph shall be considered under the guidance in paragraph 9a(3), (4), (5), (6), and 9e. (R)

c. Approval authorities shall ensure that assistance provided under this paragraph is following applicable provisions of 10 U.S.C. §§ 372, 2576, 2667 (1982); 31 U.S.C. §§ 1535-1536 (1982 & Supp. IV 1986), and any other applicable laws and directives (see references (f) through (s)). (R)

9. Restrictions on Participation by DOD Personnel in Civilian Law Enforcement Activities (A)

a. Provisions

(1) Sections 371-380 of Title 10, United States Code, govern military cooperation with civilian law enforcement officials. Further, the Posse Comitatus Act in Title 18, United States Code provides: (R)

"whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress willfully uses any part of the Army or the Air

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Force as a posse comitatus or otherwise to execute the laws shall be fined not more than \$10,000 or imprisoned not more than two years or both."

Although use of the Navy and Marine Corps as a posse comitatus is not criminal under the Posse Comitatus Act, such use is prohibited, with exceptions as contained in this instruction, as a matter of Department of Defense policy.

R)

(2) Permissible Direct Assistance

(a) This means actions that are taken for the primary purpose of furthering a military or foreign affairs function of the United States, regardless of incidental benefits to civilian authorities. This provision must be used with caution, and does not include actions taken for the primary purpose of aiding civilian law enforcement officials or otherwise serving as a subterfuge to avoid the restrictions of this instruction. Actions under this provision may include the following, depending on the nature of the DOD interest and the authority governing the specification in question:

1. Investigations and other actions related to enforcement of the Uniform Code of Military Justice (UCMJ) (10 U.S.C. §§ 801-935 (1982 & Supp. IV 1986)).

2. Investigations and other actions that are likely to result in administrative proceedings by the Department of Defense, regardless of whether there is a related civil or criminal proceeding.

3. Investigations and other actions related to the commander's inherent authority to maintain law and order on a military installation or facility.

4. Protection of classified military information or equipment.

5. Protection of DOD personnel, DOD equipment, and official guests of the Department of Defense.

6. Such other actions that are under-

taken primarily for a military or foreign affairs purpose.

(b) In addition to activities conducted in accordance with paragraphs 9d and 9d(1), drug investigations conducted by the Naval Security and Investigative Command per reference (s) are permissible. (A

(c) Audits and investigations conducted by, under the direction of, or at the request of IG, DOD, 5 U.S.C. app. 8(g) (1982), subject to applicable limitations on direct participation in law enforcement activities. (A

(d) Actions that are taken under the inherent right of the U.S. Government, under the U.S. Constitution, to ensure the preservation of public order and to carry out governmental operations within its territorial limits, or otherwise per applicable law, by force, if necessary. This authority is reserved for unusual circumstances, and will be used only under reference (m), which permits use of this power in two circumstances: (R

1. The emergency authority authorizes prompt and vigorous Federal action, including use of military forces, to prevent loss of life or wanton destruction of property and to restore governmental functioning and public order when sudden and unexpected civil disturbances, disasters, or calamities seriously endanger life and property and disrupt normal governmental functions to such an extent that duly constituted local authorities are unable to control the situation.

2. Protection of Federal property and functions authorizes Federal action, including the use of military forces, to protect Federal property and Federal Government functions when the need for protection exists and duly constituted local authorities are unable or decline to provide adequate protection.

(e) Actions taken pursuant to DOD responsibilities under 10 U.S.C. 9 §§ 331-334 (1982), relating to the use of the military forces with respect to insurgency or domestic violence or conspiracy that hinders the execution of State or Federal law in specified circumstances. (R

Actions under this authority are governed by reference (m).

(f) Actions taken under express statutory authority to assist officials in executing the laws, subject to applicable limitations. The laws that permit direct military participation in civilian law enforcement, include the following:

1. Protection of national parks and certain other Federal lands. See 16 U.S.C. §§ 23, 78, 593 (1982).

2. Enforcement of the Fishery Conservation and Management Act of 1976. See U.S.C. §§ 1861 (a) (1982).

3. Assistance in the case of crimes against foreign officials, official guests of the United States, and other internationally protected persons. See 18 U.S.C. §§ 112, 1116 (1982).

4. Assistance in the case of crimes against members of Congress. See 18 U.S.C. §§ 351 (1982).

A) 5. Assistance in the case of crimes involving nuclear materials. See 18 U.S.C. §§ 831 (1982).

6. Protection of the President, Vice President, and other designated dignitaries. See 18 U.S.C. §§ 1751 (1982) and the Presidential Protection Assistance Act of 1976, 18 U.S.C. §§ 3056 note (1982 & Supp. IV 1986).

7. Actions taken in support of the neutrality laws. See 22 U.S.C. §§ 408, 461-462 (1982).

8. Removal of persons unlawfully present on Indian lands. See 25 U.S.C. §§ 180 (1982).

9. Execution of quarantine and certain health laws. See 42 U.S.C. §§ 97 (1982).

10. Execution of certain warrants relating to enforcement of specified civil rights laws. See 42 U.S.C. 1989 (1982).

11. Removal of unlawful enclosures from public lands. See 43 U.S.C. §§ 1065 (1982).

12. Protection of the rights of a discoverer of a guano island. See 48 U.S.C. §§ 1418 (1982).

13. Support of territorial governors if a civil disorder occurs. See 48 U.S.C. §§ 1422, 1591 (1982 & Supp. IV 1986).

14. Actions in support of certain customs laws. See 50 U.S.C. §§ 220 (1982).

(3) **Restrictions on Direct Assistance.** Except as otherwise provided in this instruction, the prohibition on the use of military personnel "as a posse comitatus or otherwise to execute the laws" prohibits the following forms of direct assistance: (A)

(a) Interdiction of a vehicle, vessel, aircraft, or other similar activity. (A)

(b) A search or seizure. (A)

(c) An arrest, apprehension, stop and frisk, or similar activity. (A)

(d) Use of military personnel for surveillance or pursuit of individuals, or as undercover agents, informants, investigators, or interrogators. (A)

(4) **Training.** DON activities may provide training to Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment made available under paragraph 8. This does not permit large scale or elaborate training, and does not permit regular or direct involvement of military personnel in activities that are fundamentally civilian law enforcement operations, except as otherwise authorized in this instruction. This training of Federal, State, and local civilian law enforcement officials shall be provided under the following guidance: (R)

(a) This assistance shall be limited to situations when the use of non-DON personnel would be unfeasible or impractical from a cost or time perspective and would not otherwise compromise national security or military preparedness concerns. (A)

(b) Such assistance may not involve (A)

DON personnel in a direct role in a law enforcement operation, except as otherwise authorized by law.

- A) (c) Except as otherwise authorized by law, the performance of such assistance by DON personnel shall be at a location where there is not a reasonable likelihood of a law enforcement confrontation.

- A) (5) **Expert Advice.** DON activities may provide expert advice to Federal, State, or local law enforcement officials in accordance with 10 U.S.C. §§ 371-380. This does not permit regular or direct involvement of military personnel in activities that are fundamentally civilian law enforcement operations, except as otherwise authorized in this instruction.

- A) (6) **Use of DON Personnel to Operate or Maintain Equipment.** The use of DON personnel to operate or maintain or to assist in operating or maintaining equipment shall be limited to situations when the training of non-DOD personnel would be unfeasible or impractical from a cost or time perspective and would not otherwise compromise national security or military preparedness concerns.

- A) (a) In general, the head of the civilian law enforcement agency may request DON activities to provide DON personnel to operate or maintain or assist in operating or maintaining equipment for the civilian agency. This assistance shall be subject to the following guidance:

- A) 1. Such assistance may not involve DON personnel in a direct role in a law enforcement operation (see subsection 9a(3)), except as provided in paragraph 9a(6)(c), or as otherwise authorized by law.

- A) 2. Except as otherwise authorized by law, the performance of such assistance by DON personnel shall be at a location where there is not a reasonable likelihood of a law enforcement confrontation.

- A) 3. The use of military aircraft to provide point-to-point transportation and training

flights for civilian law enforcement officials may be provided only under reference (f).

- (b) Additional provisions concerning drug, customs, immigration, and certain other laws: a request under this provision for DON personnel to operate or maintain or to assist in operating or maintaining equipment made available under provisions of paragraph 8 may be made by the head of a civilian agency empowered to enforce the following laws: (A

1. The Controlled Substances Act (21 U.S.C. 801-904 (1982 & Supp. IV (1986)) or the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-966 (1982 & Supp. IV (1986))). (A

2. Any of Sections 274 through 278 of the Immigration and Nationality Act (codified in 8 U.S.C. §§ 1324-1328 (1982)). (A

3. A law relating to the arrival or departure of merchandise, as defined in section 1401 of the Tariff Act of 1930 as amended, (19 U.S.C. §§ 1401 (1982)), into or out of the Customs territory of the United States, as defined in the Tariff Schedules of the United States (19 U.S.C. §§ 1202 (1982 & Supp. IV (1986)), or any other territory or possession of the United States; or (A

4. Any other law that establishes authority for DON personnel to provide direct assistance to civilian law enforcement officials. In addition to the assistance authorized under this paragraph, the following assistance may be provided: (A

- a. DON personnel may be assigned to operate or assist in operating equipment to the extent the equipment is used for monitoring and communicating to civilian law enforcement officials the movement of air and sea traffic with respect to any criminal violations of the laws specified in paragraph 9a(2)(f). This includes communicating information concerning the relative position of civilian law enforcement officials and other air and sea traffic. (A

- A) b. In an emergency circumstance, equipment operated by or with the assistance of DON personnel may be used outside the land area of the United States (or any Commonwealth, territory, or possession of the United States) as a base of operations by Federal law enforcement officials to facilitate the enforcement of a law in subparagraph 9a(2)(d)1, and to transport such law enforcement officials in connection with such operations, subject to the following limitations:
- A) (1) Equipment operated by or with the assistance of DON personnel may not be used to interdict or interrupt the passage of vessels or aircraft, except when DON personnel are otherwise authorized to take such action with respect to a civilian law enforcement operation.
- A) (2) There must be a joint determination by the Secretary of Defense and the Attorney General that an emergency circumstance exists under 10 U.S.C. §§ 374(c)(2) (1982). An emergency circumstance may be determined to exist for purposes of this subparagraph only when the size and scope of the suspected criminal activity in a given situation poses a serious threat to the interests of the United States; and enforcement of laws in paragraph 9a(2)(f), would be impaired seriously if the assistance described in this subparagraph were not provided.
- A) (3) The emergency authority in this subparagraph may be used only with respect to large scale criminal activity at a particular point in time or over a fixed period. It does not permit use of this authority on a routine or extended basis.
- A) **NOTE:** Nothing in these subparagraphs restricts the authority of military personnel to take immediate action to save life or property or to protect a Federal function as provided in paragraph 9a(2).
- A) (c) When DON personnel are otherwise assigned to provide assistance with respect to the laws specified in paragraph 9a(2)(f), the participation of such personnel shall be consistent with the limitations in such laws, if any, and such restrictions as may be established by the Secretary of Defense, the ASD (FM&P), or the Secretary of the Navy.
- (7) **Other Permissible Assistance.** The following forms of indirect assistance are not restricted. (A)
- (a) Transfer of information acquired in the normal course of military operations. (A)
- (b) Such other actions, approved following procedures established by the Secretary of the Navy that do not subject civilians to use of military power that is regulatory, proscriptive, or compulsory. (A)
- b. **Exceptions based on status.** The restrictions in paragraph 9a do not apply to the following persons: (A)
- (1) A member of a Reserve Component when not on active duty, active duty for training, or inactive duty for training. (A)
- (2) A member of the National Guard when not in the Federal Service. (A)
- (3) A civilian employee of the Department of Defense. If the civilian employee is under the direct command and control of a military officer, assistance will not be provided unless it would be permitted under paragraph 9d. (A)
- (4) A member of a Military Service when off duty, and in a private capacity. A member is not acting in a private capacity when assistance to law enforcement officials is rendered under the direction or control of DOD authorities. (A)
- c. **Exceptions based on military service.** (R)
DOD guidance on the Posse Comitatus Act (reference (r)), as stated in reference (a), is applicable to the Department of the Navy and the Marine Corps as a matter of DOD policy, with such exceptions as may be provided by the Secretary of the Navy on a case-by-case basis.
- (1) Such exceptions shall include requests from the Attorney General for assistance under 21 U.S.C. §§ 873(b) (1982 & Supp. IV 1986). (A)

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(2) Prior approval from the Secretary of Defense shall be obtained for exceptions that are likely to involve participation by members of the Navy or Marine Corps in an interdiction of a vessel or aircraft, a law enforcement search or seizure, an arrest, apprehension, or other activity that is likely to subject civilians to use of military power that is regulatory, proscriptive, or compulsory. Such approval may be granted only when the head of the civilian agency concerned verifies that:

(a) The size or scope of the suspected criminal activity poses a serious threat to the interests of the United States, and enforcement of a law within the jurisdiction of the civilian agency would be impaired seriously if the assistance were not provided because civilian assets are not available to perform the missions; or

(b) Civilian law enforcement assets are not available to perform the mission and temporary assistance is required on an emergency basis to prevent loss of life or wanton destruction of property.

A) **d. Military Preparedness.** Assistance may not be provided under this paragraph if such assistance could adversely affect national security or military preparedness. The implementing documents issued by the Secretary of Navy shall ensure that approval for the disposition of equipment is vested in officials who can assess the impact of such disposition on national security and military preparedness.

A) **e. Approval Authority.** Requests by civilian law enforcement officials for use of DON resources in civilian law enforcement functions shall be forwarded to the appropriate approval authority under the guidance in this section.

R) (1) Requests for arms, ammunition, combat vehicles, vessels, and aircraft are subject to approval by the Assistant Secretary of the Navy (Manpower and Reserve Affairs) or forwarding to the Secretary of Defense, if required.

R) (2) Requests for the loan or use of other equipment or facilities for more than 60 days (including a permanent disposition) are subject to approval by the Assistant Secretary of the Navy

(Manpower and Reserve Affairs), unless approval by a higher authority is required by statute or regulation applicable to the particular disposition.

(3) All other requests for the use of equipment or facilities may be approved by Commanders in Chief of Unified and Specified commands outside the continental United States; the Chief of Naval Operations, the Commandant of the Marine Corps; second echelon commanders in the Navy, and commanders and commanding officers of major shore commands; commanding generals of Marine Corps operating forces; commanders of Marine Corps bases, camps, aviation installations, logistics installations, and unit training centers, and commanding generals of Marine Corps Reserve support activities unless approval by higher authority is required by statute or regulation applicable to the particular disposition. This approval authority may not be subdelegated. (R)

(4) The use of DON personnel in civil disturbances and related matters is governed by reference (m), which includes the approval authorities. (R)

(5) Approval authority for assistance to the government of the District of Columbia is governed by reference (q). (R)

(6) The following governs approval for assistance to civilian law enforcement officials in other circumstances: (R)

(a) The Secretary of Defense is the approval authority for requests that involve assignment of 50 or more DON personnel or a period of assignment of more than 30 days. (R)

(b) The Secretary of the Navy may approve the following types of assistance, except as provided in 9e(6)(a). (A)

1. Use of DON personnel to provide training or expert advice under or per subsections 9a(4) and 9a(5). (A)

2. Use of DON personnel for equipment maintenance under subparagraph 9a(6)(b)4a. (A)

3. Use of DON personnel to monitor (A)

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and communicate the movement of air and sea traffic under subparagraph 9a(6)(b)4a.

- A) (c) The ASD (FM&P) is the approval authority for other requests for assignment of personnel. This authority may be delegated to the Secretary of the Navy with respect to specific categories of assistance.
- A) (d) Requests that involve DON intelligence components are subject to the limitations in reference (b), and are subject to approval by the Secretary of Defense.
- A) (e) The views of JCS shall be obtained on all requests that are considered by the Secretary of Defense or the ASD (FM&P) or that otherwise involve personnel assigned to a Unified or Specified Command.
- A) (f) The view of the Assistant Secretary of Defense (Reserve Affairs) shall be obtained on all requests that are to be considered by the Secretary of Defense or the ASD (FM&P) that involve Reserve component personnel or equipment.
- A) (g) All requests, including those in which subordinate authorities recommend denial, shall be submitted promptly to the approving authority using the format and channels established by the ASD (FM&P). Requests will be forwarded and processed according to priority.

f. Funding. Funding requirements for assistance under this paragraph shall be established by the ASD (FM&P).

A) **10. Reimbursement and Accounting Procedures**

a. As a general rule, reimbursement is required when equipment or services are provided to agencies outside DOD. When DON resources are used in support of civilian law enforcement efforts, the costs shall be limited to the incremental or marginal costs incurred by DON. Reference (o) provides additional guidance.

b. As a part of the normal administrative control procedures, a copy of the civilian law enforcement agency request or a statement of the re-

quested support and the official approval should be retained for two years by the command providing the assistance. The date(s) and location(s) of the support and the DON resources employed shall be included in the documentation.

c. The system used to account for the cost of support to civilian law enforcement agencies need be no different from that deemed adequate and sufficient for normal administration and control of resources. If the accounting system used by a command has the capability to accumulate and distribute the indirect costs incurred in providing the support, including the indirect costs for the overall management of the command, that system shall be used. Where such a system is not in use, but the existing accounting system can be easily modified to provide for a systematic and rational indirect costing process which would also be beneficial to the day-to-day operations of the command, such modification shall be effected. Where such a system is not in use and the command has no other recurring or substantial need for an accounting system which separately identifies direct and indirect costs, the command will use a memorandum costing or cost-finding system established by the Comptroller of the Navy.

d. Requests for waivers of reimbursement shall be forwarded to the Chief of Naval Operations (OP-642) or the Commandant of the Marine Corps (POS), as appropriate, with copy to CNO (OP-92)/NAVCOMPT (NCB). Budgetary resources of the requesting civilian law enforcement agency and past practices with respect to similar types of assistance will be considered in evaluating such requests. The Assistant Secretary of Defense (FM&P) is the approval authority to waive reimbursement. Waivers of reimbursement will normally be appropriate in the following circumstances:

(1) When assistance under this instruction involves use of DON personnel in an activity that provides training or operational benefits that are substantially equivalent to the benefit or normal training or operations.

(2) When reimbursement is not otherwise required by law, and assistance is provided as an incidental aspect of the activity that is conducted for military purposes.

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11. Responsibilities

a. The Chief of Naval Operations and the Commandant of the Marine Corps shall:

(1) Review training and operational programs to determine how assistance can be provided to civilian law enforcement officials, consistent with the policy in paragraph 6, with a view towards identification of programs which would not involve any incremental costs or in which reimbursement can be waived under paragraph 10.

(2) Respond to the JCS in the formulation of data to evaluate the impact of requests for assistance on national security and military preparedness.

(3) Advise the Secretary of the Navy on the impact on national security and military preparedness of specific requests for assistance when the Secretary of the Navy or higher authority acts as the approving authority.

(4) Submit quarterly reports to the Assistant Secretary of the Navy (M&RA) covering all requests for assistance from civilian law enforcement officials received during the reporting period. Reports shall include the information prescribed in paragraph 13 and any other appropriate information. Actions involving the use of classified means or techniques may be exempted from such reports with the concurrence of the General Counsel of the Navy.

b. Commander in Chief, Pacific Fleet and Commander in Chief, Atlantic Fleet shall:

(1) Review training and operational programs to determine how assistance can be provided to civilian law enforcement officials, consistent with the policy in paragraph 6, with a view towards identification of programs which would not involve any incremental costs or in which reimbursement can be waived under paragraph 10.

(2) Establish operational procedures for rendering assistance to civilian law enforcement officials, to include:

(a) Establishment of ocean surveillance and reporting programs.

(b) Provision of towing or escort services for vessels seized by the U. S. Coast Guard.

(c) Provision of transportation for arrested persons in custody of civilian law enforcement officials.

(d) Provision of logistic support for law enforcement operational units.

(e) Embarkation of civilian law enforcement officials on selected Navy vessels and aircraft for law enforcement purposes.

(f) Use of force in civilian law enforcement activities.

(3) Establish contact points in subordinate commands for purposes of coordination with civilian law enforcement officials.

c. Naval Investigative Service field offices shall normally serve as the primary point of contact between Navy and Marine Corps commands and Federal, State and local civilian law enforcement officials in connection with routine investigative requests for assistance under this instruction. Requests which involve the use of facilities or equipment under the cognizance of the fleet commanders in chief or which involve the use of personnel to maintain or operate such facilities or equipment shall normally be processed directly by the fleet unit receiving the request. On Marine Corps installations with Provost Marshal activities requests shall be coordinated with the Provost Marshal.

12. Release of Information. Information provided for public affairs purposes which concerns law enforcement operations is the primary responsibility of the civilian agency that is performing the law enforcement function. DON activities may provide information on DON support when approved by the Chief of Information.

13. Action

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R) a. Navy and Marine Corps second echelon commands shall submit quarterly reports in the formats of enclosures (1) and (2) to the Chief of Naval Operations (OP-642) or the Commandant of the Marine Corps (POS), as appropriate, with copy to CNO (OP-82)/NAVCOMPT (NCB). Reports shall cover all requests for assistance received from law enforcement officials during the reporting period by the reporting command or by subordinate commands with approval authority under paragraph 9e, including requests that were denied. Such reports are due on the 15th of the month following the end of each quarter.

b. The Chief of Naval Operations (OP-642) and the Commandant of the Marine Corps (POS) will prepare consolidated Service reports for the Assistant Secretary of the Navy (M&RA) to submit to the Assistant Secretary of Defense (FM&P).

c. The provision of information under paragraph 7 shall not be reported under this paragraph unless the information was provided under a specific request from a civilian law enforcement agency for information not already in the possession of the DON. Similarly, information routinely transmitted by the Naval Investigative Service or Marine Corps Provost Marshal's Office to civilian law enforcement agencies shall not be reported under this paragraph unless such information was provided in response to a specific request and the information requested was not already in the possession of the DON.

14. Report. The report required in paragraph 13 is assigned symbol OPNAV 5820-1 and is approved for three years only from the date of this directive.

Distribution:
SNDL Parts 1 and 2
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H. Lawrence Garrett, III
Under Secretary of the Navy

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Sample Format for Preparing, "Report on Support
to Civilian Law Enforcement"

The quarterly report shall contain the following information for each request considered:

1. Number and type of assistance requested.
 - a. Facilities.
 - b. Information.
 - c. Equipment.
 - (1) Aircraft
 - (2) Vehicles
 - (3) Vessels
 - (4) Special (night vision goggles, weapons, etc.)
 - (5) Miscellaneous
 - d. Aviation Mission Support (see enclosure (2)).
 - (1) Surveillance
 - (2) Identification aircraft support
 - (3) Logistics
 - (4) Miscellaneous
 - e. Surface Mission Support.
 - (1) Surveillance
 - (2) Ship services (towing, tactical law enforcement teams TACLETs, etc.)
 - (3) Logistics
 - (4) Miscellaneous
 - f. Ground-based Mission Support.
 - (1) Radar/Sensor Surveillance

Enclosure (1)

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- (2) Aerostats
 - (3) Transportation of law enforcement personnel
 - (4) Border air and ground surveillance
 - (5) Logistics
 - (6) Miscellaneous
 - g. Explosive Ordnance Disposal.
 - h. Training provided to law enforcement agencies.
 - i. Personnel.
 - j. Other support not specifically addressed.
2. The length of time for which assistance is requested, if appropriate (if the request is for information or support for a brief time, enter "NA").
3. Status of the requests:
- a. Number approved.
 - b. Number denied,
 - c. Number pending.
4. A brief discussion of the reason for any denial.
5. Manhours/mandays expended to support law enforcement agencies.

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Aviation Assistance to Law Enforcement Agencies

(Sample Format)

Surveillance

Aircraft	Region State	Sorties	Flight Hours	Gained	Passed to LEA's	Remarks
E-2C	Pacific	18	76	10A	9	No CS support available
E-2C	Atlantic	23	88	13A	10	CHET successful intercept of one aircraft. Flown by Reserves.
P-3C	Atlantic	103	712	32S	28S	CG seized 3 vessels.

Identification

Aircraft	Region State	Sorties	Flight Hours	Visual/IRDS Attempts	Detections Successful	Remarks
OV-10	New Mexico	17	35	3A	1	Handover to USCS, 1200# Marijuana seized.

Logistics/Miscellaneous Support

Aircraft	Region State	Sorties	Flights Hours	Remarks
UH-1N	Bahamas	332	299	Bahamas police seized 12,200# marijuana, 2000# cocaine.
RF-4C	Texas	4	7	Reconnaissance of remote airfields.

Abbreviation Key:

A - Airborne
 Acft - Aircraft
 S - Surface
 L - Land
 CS - U.S. Customs Service

SS - Secret Service
 Res - Reserve
 ANG - Air Nat'l Guard
 ARNG - Army Nat'l Guard
 LEA - Law Enforcement Agency

Enclosure (2)

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Logistics/Miscellaneous Support

Aircraft	Region State	Sorties	Flights Hours	Remarks
CG	- U.S. Coast Guard		CHET	- Customs High Endurance Tracker (aircraft)
D	- DEA		IRDS	- Infrared Detection System